DAVID HAYNER; May 19, 2010

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1   IN THE UNITED STATES DISTRICT COURT
           FOR THE EASTERN DISTRICT OF TEXAS
2   MARSHALL DIVISION

3   _____

    PATTY BEALL, MATTHEW MAXWELL,   )
4   TALINA McELHANY and KELLY   )
    HAMPTON, individually and on   )
5   behalf of all other similarly   )
    situated,   ) 2:08-cv-422 TJW
6   )
         Plaintiff(s),   )
7   )
    vs.   )
8   )
    TYLER TECHNOLOGIES, INC., and   )
9   EDP ENTERPRISES, INC.,   )
)
10   Defendant(s).   )

11 _____

         DEPOSITION UPON ORAL EXAMINATION OF
12   DAVID HAYNER
    _____
13

              2:05 P.M.
14
            MAY 19, 2010
15
       520 PIKE STREET, 12TH FLOOR
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         SEATTLE, WASHINGTON
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25 REPORTED BY: MARY L. GREEN, CCR 2981

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1   A.   No.   I did not do anything in addition to that

2   to prepare for today.

3   Q.   I'm going to hand you a few documents, and I'm

4   going to be labeling them.   You'll see on the sticker

5   there will be a number.   I'm going to refer to the

6   documents by the number.

7   A.   Okay.

8   (Deposition Exhibit 1 was marked for

9   identification.)

10   Q.   (BY MS. PERLIONI) What I'm handing you right

11 now I have marked as Exhibit Number 1, and if you'll

12 take a look in the bottom right-hand corner, you'll see

13 where it says Tyler/Beall and there are some numbers

14 78866.

15   A.   Uh-huh.

16   Q.   Just so you understand, those are just Bates

17 labels that we use to identify pages, so I may say look

18 at Deposition Exhibit 1 and I'll refer to a number and

19 that's what I'm referring to, okay?

20   A.   Okay.

21   Q.   Do you recognize this document?

22   A.   Yes.

23   Q.   What is Deposition Exhibit 1?

24   A.   It's a resume that I submitted to EDEN, now

25 Tyler, back in probably November of 2004, somewhere in

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1   that time frame. It was prepared -- I had been seeking

2   a job on the Internet, and I had gotten an e-mail from

3   Connie asking for this.

4   Q. When you say Connie, you're referring to

5   Connie Shaw?

6   A. Yes.

7   Q. And do you understand Ms. Shaw to be in human

8   resources with Tyler Technologies?

9   A. Yes.

10   Q. So Ms. Shaw contacted you?

11   A. Yes.

12   Q. Had you submitted an application or an

13   interest or something online?

14   A. No, not with Tyler. I didn't know they

15   existed at the time.

16   Q. So the first thing you know of Tyler is

17   receiving the -- did you say e-mail or phone call?

18   A. E-mail.

19   Q. From Ms. Shaw?

20   A. (Nodding head).

21   Q. You have to answer out loud.

22   A. From Ms. Shaw, yes.

23   Q. And in the e-mail from Ms. Shaw, did she

24   describe to you why she was contacting you or explain

25   to you?

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1   labels for the accounts, so what the asset accounts

2   are, things like cash and fixed assets and accounts

3   payable, so there's a great deal of labeling that's

4   done, and I walk the client through basically showing

5   them, okay, here's where you do it and here's how you

6   do it. Now what labels do you want to create? I show

7   them how to create those labels.

8   Q. When you say what labels, does that mean the

9   type of accounts may differ amongst clients? They may

10   want different variables?

11   A. One may have cash on their financial

12   statements. One may have cash investments. One may

13   have a separate label for cash and another one for

14   investment. So it's simply finding out what their

15   financial statements have on them and showing them

16   where they can input those and then teaching them how

17   they can input those.

18   Q. I notice that you have an accounting

19   background and I believe are a CPA, correct?

20   A. I was a CPA. I have been certified in the

21   past.

22   Q. And does that knowledge and experience that

23   you have assist you in being able to work with the

24   client to help them set up these accounts within their

25   software?

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1   A.   It definitely helps me with knowing whether or

2   not the way that we're going to be using the software

3   will work for them, yes, and whether or not what

4   they're asking to input is an asset versus a liability.

5   Q.   How does that make a difference?

6   A.   Because you enter them in different pieces of

7   the software, so I wouldn't obviously want to direct

8   them to input a liability into the revenue section of

9   the software.

10   Q.   I'm sorry. Thank you. Go ahead. Continue.

11   You were talking about then sitting down with the

12   customer, them driving, and you're going through and

13   helping them input the labels and explaining how to do

14   that.

15   A.   Correct. Once I've input the labels, then

16   basically there's a piece of the software that matches

17   the labels with their actual GL accounts, and so I

18   demonstrate how they do those, and then for the most

19   part the rest of that trip is them sitting there and

20   matching the labels with their accounts and my

21   demonstrating how they would use the software to

22   reconcile what they've input to their previous year's

23   financial statements so that they can match the totals

24   coming out of GASB with what's in their software or

25   what's in their financial statements.

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1   If you're sitting down with me, it sounds to

2   me like there are different variables that you're going

3   to ask me as a customer how I want this to work, so

4   we're sort of information gathering, and then you work

5   to set it up that way, right?

6   A.   (Nodding head).

7   Q.   Can you give me a --

8   MS. BAGLEY: You need to answer out

9   loud.

10   A.   Sorry.   Most of what I do when I'm setting up

11   a piece of software for a client working with them to

12   set it up is information gathering.   This is their

13   piece of software.   It has to function the way that

14   they want it to function.   Most of what I do is

15   questions, asking them questions.   Is this what you

16   mean? Well, if that's not what you mean, how exactly

17   did you want this?

18   A real life basic example is there are some

19   600 or 700 system preferences within Tyler, and how you

20   set one of those system preferences can make a huge

21   difference.   Say, for example, on the budgeting module,

22   there's one called skip activity.   I only say that

23   because I ran into that this week.

24   Skip activity says that if I set it one way,

25   then when I'm attempting to commit my budget, it will

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1   look at the account, and if I have started spending

2   money out of that account, the budget doesn't care

3   because it's not budget. It's actual expenditures.

4   Well, I'm going to go ahead and commit budget to that

5   account. If you set it the other way, it will look at

6   that and it will say, oh, there's activity there. I'm

7   not going to put the budget there.

8   So you have to explain to the client how

9   setting something one way or the other can make a big

10   difference in what happens when they get to the final

11   process in that software, so it's just -- there are a

12   lot of those.

13   Q.   (BY MS. PERLIONI) When you say 6 to 700, is

14   that number particular to one module?

15   A.   That's for all of the modules.

16   Q.   So like the general ledger module may have 6

17   to 700 different variables within it?

18   A.   General ledger probably has 2 or 300. Another

19   module may have 2 or 300. In total there's 6 to 700 of

20   them.

21   Q.   So you sit down with the client and work

22   through what of these variables they prefer and how

23   ultimately their software is going to be set up?

24   A.   Correct. I don't go over all of them. If

25   it's not working the way that they want it to and one

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1   schedules. Can you give me an example of what the

2   typical week would look like?

3   MS. BAGLEY: Form.

4   A.   It's kind of hard to do that, because in

5   California, the vast majority of them are Monday to

6   Thursday 8 to 6, so you generally are at the client's 9

7   hours Monday through Thursday. This week I'm doing a

8   Monday, Tuesday, Thursday, Friday with a client that's

9   8 to 5.

10   There's no one typical really. That's why I

11   say when I write an agenda, I customize it to their

12   schedule. It's a canned agenda. I mean, it's the same

13   agenda for each client. It's just what time we're

14   going to do this depends upon their work schedule.

15   Q.   (BY MS. PERLIONI) When their work schedule

16   ends for the day, what do you do at that point in time?

17   A.   Generally go back to the hotel and do some

18   administrative tasks, get ready for the next day,

19   research anything that I may not have been able to

20   figure out during the day for the client.

21   Q.   What types of administrative tasks are you

22   talking about?

23   A.   Record time, record expenses, write e-mails.

24   Q.   And approximately how much time would that

25   take?

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1   A.   Normally an hour a day.

2   Q.   And you said research issues for the client.

3   I mean, what kind of things would you do in the evening

4   to prepare for the next day that's specific to

5   preparing for the next day of working with the client?

6   A.   Just reviewing my training materials to know,

7   for example, on the agenda what items do I have

8   scheduled to teach the next day? Is there something

9   that traditionally gives me a tough time getting the

10   point across? Is there something I need to review to

11   make sure that I've got that piece down so that I don't

12   waste my client's time? Just general preparation work.

13   Q.   So you would come up with if there was like

14   whatever -- I don't know an example -- something that

15   you may have struggled with, you would come up with a

16   way to present that to the client the next day to be

17   most effective?

18   A.   Correct. I mean, there's -- my understanding

19   is there's something like 15 million lines of code in

20   our software. It's hard to know what each one of those

21   is going to do, so I review constantly.

22   Q.   Like how do you -- I mean, what makes you

23   select a certain item or another task to pay specific

24   attention to when you're preparing for your next day of

25   training?

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1   A.   Well, a lot of times I know that something

2   that's on the schedule for tomorrow's training is

3   something that I have difficulty with.

4   Q.   Is it also sometimes it's things that you've

5   seen clients show particular difficulty understanding?

6   A.   Sometimes. I mean, maybe also that I'm

7   adjusting my agenda based upon where we've gotten to at

8   this point in time, pulling something a little easier

9   into the day if I know something challenging is in

10 there. So there's all kinds of prep work that I can

11 do. It just depends on the situation.

12   Q.   Explain what you mean by that. So say you had

13 on your agenda to get through X, Y, and Z on that first

14 day. Does it ever happen that you only get through X

15 and Y?

16   A.   Yes.

17   Q.   How do you adjust or what is it that you do

18 from there?

19   A.   It's hard to say without a specific example in

20 terms of what you're looking for, but, you know, a lot

21 of times it's judging the client's capabilities and

22 trying to weigh that off against what I've got.

23   There have been times when -- not too many,

24 but there have been occasional times when I haven't

25 finished the agenda by the end of the week simply

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1   because the client just isn't able to complete it all.

2   Q.   And then do you rearrange -- I think this is

3   what you were describing before -- rearrange the agenda

4   based on the client's capabilities to try to best fit

5   what you think they will be able to accomplish in a

6   particular day?

7   A.   I can move -- I do move things around

8   occasionally based upon clients' preferences, clients'

9   abilities.   If I don't finish the agenda, then it gets

10   moved to the next week's agenda.   That's unfortunately

11   not true for things like GASB.   You have a set agenda.

12   It has to be completed.

13   Q.   You mentioned earlier sometimes you would

14   rearrange things on the agenda because of you know you

15   have something that's more challenging coming, so you

16   might rearrange another task so you're not overwhelming

17   them in a particular day.

18   A.   For example, I know that on Monday I've gotten

19   there and we've got X and Y done and Z is very, very

20   challenging, and the next day the very first thing in

21   the morning is also something challenging, and if I put

22   Z over into the first thing of the day and they have to

23   follow that with another challenging task, sometimes

24   clients just give up and check out, so I might put

25   something a little easier in between them so that they

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1   get a break.

2   Q.   So you're observing the client and how well

3   they are grasping what you're training and structure

4   the rest of the week to try to best accomplish your

5   goals for the week?

6   MS. BAGLEY: Object to the form.

7   Q.   (BY MS. PERLIONI) Am I describing that

8   correctly?

9   A.   Sorry.   I think she said something.

10   MS. BAGLEY: I'm just objecting to the

11   form of the question, but you can answer if you

12   understand the question or if you agree with the way

13   that she's presented it.

14   A.   I'll answer it the way I think you're asking.

15   I occasionally restructure my agendas because of what I

16   think the client's capabilities are to make my efforts

17   there that week more effective. That's after all kind

18   of what my job is is to make sure that they learn.

19   It's not to simply show up and look pretty.

20   The point is that the client wants an outcome,

21   and I have to adapt to whatever has been thrown at me

22   that week, so I do adapt to what the situation is and

23   try my best to fulfill the agenda, and I think I do

24   that very well.

25   Q.   (BY MS. PERLIONI) Let's jump forward to the

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1   REPORTER'S CERTIFICATE

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3   I, MARY L. GREEN, the undersigned Certified Court

4   Reporter and Notary Public, do hereby certify:

5   That the sworn testimony and/or proceedings, a

6   transcript of which is attached, was given before me at the

7   time and place stated therein; that any and/or all witness(es)

8   were duly sworn to testify to the truth; that the sworn

9   testimony and/or proceedings were by me stenographically

10   recorded and transcribed under my supervision, to the best of

11   my ability; that the foregoing transcript contains a full,

12   true, and accurate record of all the sworn testimony and/or

13   proceedings given and occurring at the time and place stated

14   in the transcript; that I am in no way related to any party to

15   the matter, nor to any counsel, nor do I have any financial

16   interest in the event of the cause.

17   WITNESS MY HAND, SEAL, AND DIGITAL SIGNATURE this 25th

18   day of May, 2010.

19

20

21   MARY L. GREEN
     Certified Court Reporter, #2981
22   Notary Public in and for the State of Washington,
     Residing in Snohomish County. Commission expires 4-4-2013.
23   mgreen@yomreporting.com

24   Click Link to Verify Signature:

25   (Https://digitalid.verisign.com/services/client/index.html)